

CHAPTER NO. 298

SENATE BILL NO. 437

By Cohen, McLeary, Miller, Ford, Crutchfield, Dixon

Substituted for: House Bill No. 787

**By Newton, Mr. Speaker Naifeh, Langster, Brown, Michael Turner, Coleman,
Bowers, Winningham, Davidson, Towns, Brenda Turner, Henri Brooks, Larry
Turner, Miller**

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 33; Title 38; Title 39; Title 48; Title 49 and Title 68, relative to educational programs and purposes funded from proceeds of the state lottery. This act makes appropriations for educational programs and purposes for an indefinite period of time.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 4, is amended by adding the following as a new part:

§ 49-4-901. Net proceeds of the state lottery shall be used exclusively for the purposes set out in Article XI, Section 5 of the Constitution of Tennessee and the provisions of this act. Such net proceeds shall be used to supplement, not supplant, existing resources for educational purposes, projects and programs. It is the intent of the general assembly that if there exist net proceeds of the state lottery in excess of those allocated to provide financial assistance to citizens of this state to enable such citizens to attend postsecondary educational institutions located in Tennessee, then such excess net proceeds shall be allocated first to early learning programs. It is further the intent of the general assembly that the scholarship and grant programs established under this part shall not create an entitlement to financial assistance to enable attendance at a postsecondary institution for any student.

§ 49-4-902. As used in this part, unless the context otherwise requires:

(1) "Academic year" means a period of time, typically nine (9) months, in which a full-time student is expected to complete the equivalent of at least two (2) semesters of academic work.

(2) "ACT" means the ACT assessment administered by ACT.

(3) "Adjusted gross income attributable to the student" or "student's adjusted gross income" means:

(A) The adjusted gross income of the student's parent or parents as reported on the student's FAFSA and used by TSAC in determinations of eligibility for federal or state financial aid, if the student is a dependent of a parent or parents; or

(B) The adjusted gross income of the student and, if applicable, the student's spouse as reported on the student's FAFSA and used by TSAC in determinations of eligibility for federal or state financial aid, if the student is financially independent of parents.

(4) "Certificate" or "diploma" means a credential, other than a degree, the receipt of which indicates satisfactory completion of training in a program of study offered by a Tennessee Technology Center operated by the board of regents of the state university and community college system.

(5) "College core curriculum" means the high school courses in the curriculum approved by the state board of education for those students intending to pursue postsecondary education.

(6) "Continuous enrollment" means that a student is enrolled for at least two (2) of each three (3) consecutive semesters beginning with the semester in which the student initially enrolls in a postsecondary institution.

(7) "Eligible high school" means:

(A) A Tennessee public secondary school; or

(B) A private secondary school that is located in Tennessee and is accredited by the Southern Association of Colleges and Schools.

(8) "Eligible postsecondary institution" means an eligible independent postsecondary institution or an eligible public postsecondary institution.

(9) "Eligible independent postsecondary institution" means:

(A) An institution created by testamentary trust for which the state acts by statute as trustee and for which the governor is authorized to appoint commissioners with the advice and consent of the senate and that offers courses leading to undergraduate degrees; or

(B) A Southern Association of Colleges and Schools accredited private postsecondary institution that is located in Tennessee.

(10) "Eligible public postsecondary institution" means:

(A) An institution operated by the board of regents of the state university and community college system; or

(B) An institution in the University of Tennessee system;

(11) "FAFSA" means the Free Application for Federal Student Aid.

(12) "Freshman student" means a student at a postsecondary institution who is in the first two (2) semesters of full-time attendance or the equivalent, if the student attends part-time.

(13) "Full-time student" means a student attending a postsecondary educational institution and enrolled for at least twelve (12) semester hours during each semester of attendance.

(14) "General Assembly Merit Scholarship" means the scholarship that is awarded for academic excellence under § 49-4-916. A "General Assembly Merit Scholarship" consists of two (2) parts, a Tennessee HOPE scholarship and a General Assembly Merit Scholar supplemental award.

(15) "GED" means a general educational development credential awarded by a state-approved institution or organization.

(16) "Grade point average" means the numbered grade average calculated using a 4.0 scale.

(17) "Home school student" means a student who completed high school in a Tennessee home school program meeting the requirements of § 49-6-3050. For two (2) years immediately preceding completion of high school as a home school student, such student shall have been a student in a home school associated with a church-related school as defined by § 49-50-801 and registered with the Tennessee local school district which the student would otherwise attend as required by § 49-6-3050(a)(2)(C)(i) or an independent home school student whose parent or guardian has given notice to the local director of a Tennessee school district under § 49-6-3050(b)(1) of intent to conduct a home school.

(18) "Parent" means parent or guardian.

(19) "Part-time student" means a student attending a postsecondary educational institution and enrolled for at least six (6) semester hours, but less than twelve (12) semester hours, during a semester of attendance.

(20) "Regional accrediting association" means:

(A) The Southern Association of Colleges and Schools;

(B) The New England Association of Schools and Colleges;

(C) The Middle States Association of Colleges and Schools;

(D) The North Central Association of Colleges and Schools;

(E) The Northwestern Association of Schools and Colleges; or

(F) The Western Association of Schools and Colleges.

(21) "SAT" means the Scholastic Aptitude Test administered by the College Board.

(22) "Scholarship" means a Tennessee HOPE scholarship or a Tennessee HOPE access grant.

(23) "Semester" means fall, spring, or summer semester at a postsecondary institution, if the institution is on a semester system, or the equivalent, if the institution is on a system other than a semester system.

(24) "Semester hour" means the credit hour used by a postsecondary institution, if the institution is on a semester system, or its equivalent, if the institution is on a system other than a semester system. "Semester hour" includes each semester hour attempted, whether remedial or for credit toward a degree, but shall not include any semester hour attempted before graduating from high school or earning a GED.

(25) "Student who has obtained a GED" means a student who was a Tennessee resident for at least one (1) year prior to obtaining a GED.

(26) "Tennessee HOPE access grant" means a grant for study in pursuit of an associate or baccalaureate degree at an eligible postsecondary institution that is funded from net proceeds of the state lottery and awarded to freshman students meeting the requirements of § 49-4-920.

(27) "Tennessee HOPE scholarship" means a scholarship for study in pursuit of an associate or baccalaureate degree at an eligible postsecondary institution that is funded from net proceeds of the state lottery and awarded under this part.

(28) "THEC" means the Tennessee higher education commission.

(29) "Title IV" means Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C.A. § 1070, et seq.

(30) "TSAC" means the Tennessee student assistance corporation.

(31) "Unweighted grade point average" means grade point average on a 4.0 scale calculated without additional points awarded for advanced placement, honors, or other similar courses.

(32) "Wilder-Naifeh technical skills grant" means a grant for study in pursuit of a certificate or diploma at a Tennessee Technology Center operated by the board of regents of the state university and community college system that is funded from net proceeds of the state lottery and awarded under this part.

§ 49-4-903. (a) The scholarship and grant programs established by this part shall be administered by TSAC, which shall be responsible for determination of eligibility of students and for the distribution of funds appropriated by the general assembly for scholarships and grants awarded under the program. In the event net proceeds from lottery revenues are insufficient to fund fully the scholarships and grants created by this part, then the Tennessee student

assistance corporation is authorized to review and reduce the amounts to be awarded for such scholarships and grants pro rata.

(b) THEC shall provide assistance to the general assembly and to TSAC by researching and analyzing data concerning the scholarship and grant programs created under this part, including, but not limited to, student success and scholarship retention. THEC shall report its findings annually to the education committee of the senate and the education committee of the house of representatives before the second Tuesday in January.

(c) Postsecondary educational institutions that enroll students receiving scholarships or grants under this part shall provide all information required by TSAC and THEC that is necessary for administering, reviewing, and evaluating such programs. TSAC and THEC may choose to collect data from higher education institutions or through the University of Tennessee system, board of regents, or the Tennessee Independent Colleges and Universities Association. TSAC and THEC shall maintain confidentiality of individual student records in accordance with the Family Educational Right to Privacy Act.

§ 49-4-904. A student is ineligible for any scholarship or grant described in this part if the student:

- (1) Is not a Tennessee citizen;
- (2) Has not complied with United States Selective Service System requirements for registration, if such requirements are applicable to the student;
- (3) Is in default on a federal Title IV educational loan or Tennessee educational loan;
- (4) Owes a refund on a federal Title IV student financial aid program or a Tennessee student financial aid program;
- (5) Is not in compliance with federal drug-free rules and laws for receiving financial assistance;
- (6) Is incarcerated; or
- (7) Does not meet each qualification relating to the relevant scholarship or grant and applicable to the student.

§ 49-4-905. (a) To be eligible for a Tennessee HOPE scholarship, Tennessee HOPE access grant, or a Wilder-Naifeh technical skills grant, a student shall have:

- (1) Been a Tennessee resident, as defined by regulations promulgated by the board of regents under § 49-8-104, for one (1) year immediately preceding the date of application for a scholarship or grant or the renewal of a scholarship or grant;
- (2) Made application for a Tennessee HOPE scholarship, Tennessee HOPE access grant, or Wilder-Naifeh technical skills grant; and
- (3) Been admitted to an eligible postsecondary institution.

(b) To be eligible for a Tennessee HOPE scholarship, a student shall have graduated from a Tennessee high school, completed high school in a Tennessee home school program, or obtained a GED after January 1, 2003. To be eligible for a Tennessee HOPE access grant a student shall have graduated from an eligible high school after January 1, 2004. The provisions of this subsection shall not apply to those students applying for Wilder-Naifeh technical skills grants.

§ 49-4-906. Except for the supplemental award under § 49-4-915 and the Tennessee HOPE access grants under § 49-4-920, eligibility for scholarships or grants awarded under this part shall not be restricted or limited by the adjusted gross income attributable to a student. Students applying for the supplemental award under § 49-4-915 and students applying for a Tennessee HOPE access grant under § 49-4-920 shall file a FAFSA with TSAC.

§ 49-4-907. To be eligible for a Tennessee HOPE scholarship, a student, who graduated from an eligible high school after January 1, 2004, upon having completed curriculum requirements of the high school for graduation, shall:

(1) Meet the requirements of §§ 49-4-904 and 49-4-905;

(2) Apply for a Tennessee HOPE scholarship in or after the senior year of high school; and

(3) (A) (i) Achieve a final overall unweighted high school grade point average of at least 3.0; and

(ii) Achieve a final unweighted grade point average of at least 3.0 in the college core curriculum. Such grade point average shall be calculated using all college core courses taken by the student; or

(B) Attain a composite ACT score of at least 19 on any single ACT test date or a combined SAT score of at least 890 on any single SAT test date.

§ 49-4-908. To be eligible for a Tennessee HOPE scholarship, a student, who completed high school in a Tennessee home school program after January 1, 2004, who obtained a GED after January 1, 2004, or who graduated from a high school located in Tennessee that is not an eligible high school after January 1, 2004, shall:

(1) Meet the requirements of §§ 49-4-904 and 49-4-905;

(2) (A) Attain a composite ACT score of at least 23 on any single ACT test date or a combined SAT score of at least 1060 on any single SAT test date, if such student completed high school in a Tennessee home school program or graduated from a high school located in Tennessee that is not an eligible high school; or

(2) (B) Pass the GED tests with an average score of at least 525 and attain a composite ACT score of at least 19 on any single ACT test date or a combined SAT score of at least 890 on any single SAT test date, if such student obtained a GED; and

(3) Be admitted to and enroll in an eligible postsecondary institution within six (6) months of completing high school in a Tennessee home school program, obtaining a GED, or graduating from high school.

§ 49-4-909. (a) To be eligible for a Tennessee HOPE scholarship, a student, who graduated from a Tennessee high school, who completed high school in a Tennessee home school program, or who obtained a GED after January 1, 2003, but prior to January 1, 2004, shall:

(1) Meet the requirements of §§ 49-4-904 and 49-4-905;

(2) (A) Meet the requirements of subdivision (3) of § 49-4-907, if the student graduated from an eligible high school; or

(B) (i) Meet the requirements of subdivision (2)(A) of § 49-4-908, if the student completed high school in a Tennessee home school program or graduated from a high school located in Tennessee that is not an eligible high school; or

(ii) Meet the requirements of subdivision (2)(B) of § 49-4-908, if the student obtained a GED;

(3) Attend an eligible postsecondary institution or a postsecondary institution located outside of Tennessee that is accredited by a regional accrediting association during the 2003-2004 academic year without a Tennessee HOPE scholarship and successfully complete at least twenty-four (24) semester hours of credit at such institution;

(4) Maintain satisfactory progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the postsecondary institution in which the student enrolled;

(5) Achieve the cumulative grade point average that is required under § 49-4-911 for continuation of a Tennessee HOPE scholarship for the total number of semester hours that the student has attempted at any postsecondary institution attended;

(6) Apply for a Tennessee HOPE scholarship while enrolled as a student at the postsecondary institution attended during the 2003-2004 academic year; and

(7) Be admitted to and enroll in an eligible postsecondary institution for the 2004-2005 academic year.

(b) No retroactive award of a Tennessee HOPE scholarship shall be made under this section.

§ 49-4-910. A student who receives a Tennessee HOPE scholarship and attends an eligible postsecondary institution may transfer to another eligible postsecondary institution without loss of the scholarship; provided, that the

student continues to meet all requirements for such scholarship. The scholarship award shall be the award applicable to the eligible postsecondary institution to which the student transferred.

§ 49-4-911. (a) To continue to receive a Tennessee HOPE scholarship, a student at an eligible postsecondary institution shall continue to meet all applicable requirements for the scholarship and shall reapply for the scholarship upon attempting twenty-four (24), forty-eight (48), seventy-two (72), or ninety-six (96) semester hours. At the end of the semester in which the student has attempted a total of twenty-four (24) semester hours, the student shall have achieved a cumulative grade point average of at least 2.75 to continue to receive the Tennessee HOPE scholarship. Eligibility for the Tennessee HOPE scholarship shall also be reviewed at the end of the semester in which a student has attempted a total of forty-eight (48), seventy-two (72), or ninety-six (96) semester hours. At the end of the semester in which the student has attempted a total of forty-eight (48), seventy-two (72), or ninety-six (96) semester hours, the student shall achieve a cumulative grade point average of at least 3.0 to continue to receive the scholarship for the following academic year.

(b) If a student ceases to be eligible for a Tennessee HOPE scholarship at any time for any reason, then the student shall not be able to regain the Tennessee HOPE scholarship.

§ 49-4-912. (a) The receipt of a Tennessee HOPE scholarship is contingent upon admission to an eligible postsecondary institution. Academically qualifying for a Tennessee HOPE scholarship does not guarantee admission to an eligible postsecondary institution.

(b) Tennessee HOPE scholarship students may enroll as full-time students or part-time students at an eligible postsecondary institution. A student who enrolls as a full-time student at the beginning of a semester may not drop to part-time status in that semester, unless the student requests and the institution approves part-time status based on documented medical or personal grounds. TSAC shall promulgate rules and regulations for attendance as a part-time student, payment of awards to part-time students, change from full-time to part-time status based on documented medical or personal grounds, and the grounds for which such change from full-time to part-time status may be granted. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act compiled at Title 4, Chapter 5.

§ 49-4-913. (a) Except as set forth in subsection (b) of this section and §§ 49-4-918 and 49-4-919, a student may receive a Tennessee HOPE scholarship until the first of the following events:

- (1) The student has earned a baccalaureate degree;
- (2) The student has attempted at any postsecondary institution a total one hundred twenty (120) semester hours; or
- (3) Five (5) years from the date of the student's initial enrollment at any postsecondary institution have passed.

(b) A student enrolled in an undergraduate degree program required to be more than one hundred twenty (120) semester hours in length is eligible to receive a Tennessee HOPE scholarship until the first of the following events:

- (1) The student has earned a baccalaureate degree;
- (2) The student has attempted at any postsecondary institution a total of one hundred thirty-six (136) semester hours; or
- (3) Five (5) years from the date of the student's initial enrollment at any postsecondary institution have passed.

§ 49-4-914. (a) Subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, a Tennessee HOPE scholarship awarded to a student attending an eligible four-year postsecondary institution shall be three thousand dollars (\$3,000) for full-time attendance for the 2004-2005 academic year. For academic years subsequent to the 2004-2005 academic year, the amount of such scholarship shall be determined in accordance with § 4-51-111 and shall be set in the general appropriations act.

(b) Subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, a Tennessee HOPE scholarship awarded to a student attending an eligible two-year postsecondary institution shall be fifteen hundred dollars (\$1,500) for full-time attendance for the 2004-2005 academic year. For academic years subsequent to the 2004-2005 academic year, the amount of such scholarship shall be determined in accordance with § 4-51-111 and shall be set in the general appropriations act.

§ 49-4-915. (a) To be eligible for a supplemental award, a student shall:

- (1) Be eligible for a Tennessee HOPE scholarship; and
- (2) Have an adjusted gross income attributable to the student that does not exceed thirty-six thousand dollars (\$36,000).

(b) Such student shall receive the Tennessee HOPE scholarship award under § 49-4-914 and a supplemental award. The supplemental award for full-time students shall be one thousand dollars (\$1,000) for the 2004-2005 academic year. For academic years subsequent to the 2004-2005 academic year, the amount of such supplemental award shall be determined in accordance with § 4-51-111 and shall be set in the general appropriations act. Both the Tennessee HOPE scholarship and the supplemental award are subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery.

(c) The adjusted gross income attributable to the student shall be reviewed each academic year to determine continuing eligibility for the supplemental award.

§ 49-4-916. (a) To be eligible for a General Assembly Merit Scholarship as an entering freshman, a student, who graduated from an eligible high school

after January 1, 2004, upon having met all curriculum requirements of the high school for graduation and who is seeking an associate or baccalaureate degree at an eligible postsecondary institution, shall:

(1) Meet all requirements for a Tennessee HOPE scholarship;

(2) Achieve a final overall unweighted high school grade point average of at least 3.75;

(3) Achieve a final unweighted grade point average of at least 3.75 in the college core curriculum. Such grade point average shall be calculated using all college core courses taken by the student;

(4) Attain a composite ACT score of at least 29 on any single ACT test date or a combined SAT score of at least 1280 on any single SAT test date; and

(5) Apply for a General Assembly Merit Scholarship in the senior year of high school.

(b) To be eligible for a General Assembly Merit Scholarship as an entering freshman, a student who completed high school in a Tennessee home school program after January 1, 2004, or who graduated from a high school located in Tennessee that is not an eligible high school after January 1, 2004, shall:

(1) Meet all requirements for a Tennessee Hope scholarship that are applicable to such student;

(2) Attain a composite ACT score of at least 29 on any single ACT test date or a combined SAT score of at least 1280 on any single SAT test date;

(3) During the course of a home school program or while attending high school, enroll in at least four (4) courses totaling at least twelve (12) semester hours credit at an eligible postsecondary institution. Such courses shall meet or be equivalent to courses meeting the minimum degree requirements of the board of regents, other than the minimum degree requirements pertaining to physical education; and

(4) Achieve a cumulative grade point average of at least 3.0 for all courses attempted at any eligible postsecondary institution during the course of a home school program or while attending high school.

(c) A student, who receives a General Assembly Merit Scholarship as an entering freshman shall continue to be eligible for a General Assembly Merit Scholarship, if the student meets all requirements of § 49-4-911 for continuation of a Tennessee HOPE scholarship.

(d) To be eligible for a General Assembly Merit Scholarship, a student, who graduated from an eligible high school after January 1, 2003, but prior to January 1, 2004, and who is seeking an associate or

baccalaureate degree shall have, prior to entering a postsecondary institution:

(1) Achieved a final overall unweighted high school grade point average of at least 3.75;

(2) Achieved a final unweighted high school grade point average of at least 3.75 in the college core curriculum. Such grade point average shall be calculated using all college core courses taken by the student; and

(3) Attained a composite ACT score of at least 29 on any single ACT test date or a combined SAT score of at least 1280 on any single SAT test date.

Such student shall apply for the General Assembly Merit Scholarship in the year following graduation from high school and while the student is attending, as a freshman, either an eligible postsecondary institution or a postsecondary institution located outside of Tennessee that is accredited by a regional accrediting agency. The student shall have a cumulative grade point average of at least 2.75 at the end of the semester in which the student has attempted a total of twenty-four (24) semester hours to be eligible to receive a Tennessee HOPE scholarship award and a General Assembly Merit Scholar supplemental award to attend an eligible postsecondary institution during the next academic year. To continue to receive the General Assembly Merit Scholarship, the student shall continue to meet all eligibility requirements for a Tennessee HOPE scholarship and meet the continuation requirements of § 49-4-911. No retroactive award of a General Assembly Merit Scholarship shall be made under this subsection.

(e) If a student receiving a General Assembly Merit Scholarship ceases to be eligible for the General Assembly Merit Scholarship at any time, the student shall not be able to regain either the Tennessee HOPE scholarship award or the General Assembly Merit Scholar supplemental award.

(f) A student who meets the requirements for a General Assembly Merit Scholarship shall receive a Tennessee HOPE scholarship award under § 49-4-914 and a General Assembly Merit Scholar supplemental award. The General Assembly Merit Scholar supplemental award for full-time students shall be one thousand dollars (\$1,000) for the 2004-2005 academic year. For academic years subsequent to the 2004-2005 academic year, the amount of the General Assembly Merit Scholar supplemental award shall be determined in accordance with § 4-51-111 and shall be set in the general appropriations act. Both the Tennessee HOPE scholarship award and the General Assembly Merit Scholar supplemental award are subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery.

§ 49-4-917. Students may receive either the supplemental award under § 49-4-915 or the supplemental award as a General Assembly Merit Scholar, but not both.

§ 49-4-918. (a) A student, who enters the United States Armed Services within two (2) years after the student graduates from a Tennessee high school, completes high school in a Tennessee home school program, or obtains a GED, may apply for a Tennessee HOPE scholarship within seven (7) years of the student's date of entry into military service; provided, that such student did not attend a postsecondary institution before entering military service. If, however, such student is honorably discharged from military service before applying for a Tennessee HOPE scholarship, then the student shall apply for a scholarship within one (1) year of the date of honorable discharge or within seven (7) years of the student's date of entry into military service, whichever occurs first.

(b) To be eligible for a Tennessee HOPE scholarship, such student shall:

(1) Meet the requirements of § 49-4-907, other than any requirements pertaining to deadlines for application for a Tennessee HOPE scholarship, if the student graduated from an eligible high school before entering military service; or

(2) Meet the requirements of § 49-4-908, other than any requirements pertaining to deadlines for application for a Tennessee HOPE scholarship, if the student completed high school in a Tennessee home school program, graduated from a high school located in Tennessee that is not an eligible high school, or obtained a GED.

(c) To continue to receive the scholarship, the student shall maintain satisfactory academic progress in accordance with the standards and practices used for federal Title IV programs by the institution at which the student is enrolled, shall continue to meet all eligibility requirements, shall reapply for the scholarship each academic year, and shall meet the continuation requirements of § 49-4-911.

(d) This section shall not apply to any person who is dishonorably discharged from military service.

§ 49-4-919. (a) A Tennessee HOPE scholarship student who has an approved medical or personal leave of absence from an eligible postsecondary institution may continue to receive the scholarship upon resuming such student's education at an eligible postsecondary institution so long as the student continues to meet all applicable eligibility requirements. Such student shall be eligible for the scholarship until the first of the following events:

(1) The student has earned a baccalaureate degree;

(2) The student has attempted at any postsecondary institution a total of one hundred twenty (120) semester hours, or if the student is enrolled in an undergraduate degree program required to be more than one hundred twenty (120) semester hours in length, one hundred thirty-six (136) semester hours; or

(3) The sum of the number of years the student attended a postsecondary institution prior to the leave of absence and the number of years of attendance after the leave of absence equals five (5) years.

(b) Except for approved medical or personal leaves of absence, a Tennessee HOPE scholarship student, including a part-time student, shall be enrolled continuously as a student at an eligible postsecondary institution.

(c) TSAC shall promulgate rules and regulations for approval of medical or personal leave and the grounds for which such leave may be granted. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act compiled at Title 4, Chapter 5.

§ 49-4-920. (a) To be eligible for a Tennessee HOPE access grant, a freshman student shall:

(1) Meet all requirements of §§ 49-4-904 and 49-4-905;

(2) Have an adjusted gross income attributable to the student that does not exceed thirty-six thousand dollars (\$36,000);

(3) Apply for a Tennessee HOPE access grant and file a FAFSA in the senior year of high school;

(4) Graduate from an eligible high school after January 1, 2004, upon having completed curriculum requirements of the high school for graduation;

(5) Achieve a final overall unweighted high school grade point average of at least 2.75;

(6) Achieve a final unweighted grade point average of at least 2.75 in the college core curriculum. Such grade point average shall be calculated using all college core courses taken by the student; and

(7) Attain a composite ACT score of at least 18 on any single ACT test date or a combined SAT score of at least 860 on any single SAT test date.

(b) (1) A Tennessee HOPE access grant shall be awarded to an eligible student only until the end of the semester in which the student has attempted a total of twenty-four (24) semester hours. A student who is eligible for a Tennessee HOPE Scholarship shall be ineligible for a Tennessee HOPE access grant.

(2) A student receiving a Tennessee HOPE access grant shall maintain continuous enrollment at an eligible postsecondary institution.

(3) If a student ceases to be eligible for a Tennessee HOPE access grant at any time for any reason, then the student may not regain the Tennessee HOPE access grant and shall not be eligible for a Tennessee HOPE scholarship.

(c) The receipt of a Tennessee HOPE access grant is contingent upon admission to an eligible postsecondary institution. Financially and academically qualifying for a Tennessee HOPE access grant does not guarantee admission to an eligible postsecondary institution.

(d) Subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary assistance from the net proceeds of the state lottery, a Tennessee HOPE access grant shall be fifty percent (50%) of the combined award of the supplemental

award under § 49-4-915 and the Tennessee HOPE scholarship awarded under § 49-4-914 that is applicable to Tennessee HOPE scholarship recipients at the eligible postsecondary institution at which the Tennessee HOPE access grant recipient is enrolled.

(e) TSAC shall review a student's eligibility at the end of the semester in which the student has attempted twenty-four (24) semester hours. If a student receiving a Tennessee HOPE access grant has achieved a cumulative grade point average of at least 2.75 at the end of the semester in which the student has attempted twenty-four (24) semester hours, the student shall be eligible for a Tennessee HOPE scholarship and, if the student's adjusted gross income at the time of review does not exceed thirty-six thousand dollars (\$36,000), a supplemental award under § 49-4-915.

(f) A student may receive a Tennessee HOPE scholarship after having received a Tennessee HOPE access grant until the first of the following events:

(1) The student has earned a baccalaureate degree;

(2) The student has attempted at any postsecondary institution a total of one hundred twenty (120) semester hours, or if the student is enrolled in an undergraduate degree program required to be more than one hundred twenty (120) semester hours in length, one hundred thirty-six (136) semester hours; or

(3) Five (5) years from the date of the student's initial enrollment at any postsecondary institution have passed.

§ 49-4-921. (a) To be eligible for a Wilder-Naifeh technical skills grant, a student seeking a diploma or certificate at a Tennessee Technology Center operated by the board of regents of the state university and community college system shall:

(1) Meet the requirements of §§ 49-4-904 and 49-4-905(a);

(2) Be admitted to the institution in a program of study leading to a certificate or diploma; and

(3) Have not, at any time, been the recipient of a Tennessee HOPE scholarship.

(b) No minimum number of hours of enrollment is required for eligibility for a Wilder-Naifeh technical skills grant under this section, but a student receiving a grant shall maintain satisfactory academic progress in accordance with the standards and practices used for federal Title IV programs by the institution at which the student is enrolled to continue the grant. If a student fails to maintain satisfactory academic progress, then the student shall lose the Wilder-Naifeh technical skills grant. Once a student loses a Wilder-Naifeh technical skills grant, no additional award under this section shall be made.

(c) A student who has been awarded a Wilder-Naifeh technical skills grant shall maintain continuous enrollment at the institution in accordance with the institution's requirements.

(d) Until receipt of the certificate or diploma, a student shall reapply each academic year for the Wilder-Naifeh technical skills grant.

(e) An eligible student may receive a Wilder-Naifeh technical skills grant for all course work required by the institution for a program of study leading to a certificate or diploma. Wilder-Naifeh technical skills grants may not be used for continuing education courses.

(f) Subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, a Wilder-Naifeh technical skills grant awarded under this section shall be one thousand two hundred fifty dollars (\$1,250) for full-time attendance for the 2004-2005 academic year. For academic years subsequent to the 2004-2005 academic year, the amount of such scholarship shall be determined in accordance with § 4-51-111 and shall be set in the general appropriations act.

(g) No student shall be eligible for more than one (1) Wilder-Naifeh technical skills grant.

§ 49-4-922. If the sum of all financial aid, including a Tennessee HOPE scholarship, a Tennessee HOPE access grant, a General Assembly Merit scholarship, a supplemental award under § 49-4-915, or a Wilder-Naifeh technical skills grant, for which a student qualifies exceeds the institutionally defined total cost of education at the eligible postsecondary institution the scholarship or grant recipient is attending, then such student's financial assistance provided under this part shall be reduced so that the financial aid actually received by the student does not exceed the institutionally defined total cost of education.

§ 49-4-923. Scholarships or grants to be awarded under this part shall not commence prior to the fall semester of 2004.

§ 49-4-924. (a) TSAC is authorized to promulgate rules and regulations to establish deadlines for applications, appeal procedures for the denial or revocation of scholarships and grants, methods of paying scholarship awards to part-time students, and to otherwise effectuate the purposes of this part. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act compiled at Title 4, Chapter 5.

(b) TSAC shall promulgate rules and regulations to provide for repayment or partial repayment of a scholarship or grant awarded to a student who subsequently withdraws from courses or from the postsecondary institution. Such rules shall be comparable to rules for repayment of other financial aid available to postsecondary students. No repayment shall be required if a full-time student withdraws from a course and such withdrawal does not reduce the student's course load below twelve (12) semester hours. All students shall be notified of the consequences of withdrawing from courses or from the institution, when notified of the award of a scholarship or grant. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act compiled at Title 4, Chapter 5.

(c) THEC is authorized to promulgate rules and regulations to effectuate the purposes of this part. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act compiled at Title 4, Chapter 5.

(d) Notwithstanding the provisions of § 4-5-209 or any other law to the contrary, TSAC and THEC are authorized to promulgate public necessity rules to implement Section 1 of this act.

(e) Costs incurred by TSAC and THEC in administering the educational programs created under this part, which provide financial assistance to enable citizens of this state to attend postsecondary educational institutions, shall be funded from the lottery for education account as part of such programs.

SECTION 2. The general assembly finds and declares that:

(1) The citizens of Tennessee in November 2002 approved an amendment to the Constitution of Tennessee to permit a state lottery, if the net proceeds of such lottery are used to provide financial assistance to Tennesseans to enable them to attend postsecondary institutions in this state, with excess proceeds used for capital outlay projects for K-12 educational facilities and early learning and after school programs;

(2) The availability of such financial assistance for postsecondary education should be structured to inspire students from a very early age to aspire to academic excellence in order to attend institutions of higher education;

(3) Such financial assistance should assist Tennesseans without the means the opportunity to attend institutions of higher education;

(4) Such financial assistance should be designed to increase the number of Tennesseans holding associate and baccalaureate degrees;

(5) The ultimate goal of such financial assistance should be to improve quality of life for all Tennesseans and to enhance the desirability of Tennessee as a place without equal in which to live and work; and

(6) The decision as to how to provide such financial assistance should be made after thorough study and deliberation.

SECTION 3. (a) There is created a special joint committee to study the manner in which financial assistance for Tennesseans to attend postsecondary institutions located in Tennessee shall be provided from net lottery proceeds of the state lottery established pursuant to Article XI, Section 5 of the Constitution of Tennessee.

(b) The committee shall consist of six (6) members of the house of representatives and six (6) members of the senate. The chairs of the education committees of the house of representatives and the senate and the chair of the higher education subcommittee of the education committee of the house of representatives shall serve on the committee. The speaker of the house shall appoint the remaining house members of the committee from the house of representatives. The speaker of the senate shall appoint the remaining senate members of the committee from the senate.

(c) All appropriate state agencies shall provide assistance to the special joint committee.

(d) The special joint committee shall be convened by the member with the most years of continuous service in the general assembly; and at its first

meeting, the committee shall elect a chair, vice-chair, and such other officers as the committee deems necessary.

(e) The committee shall specifically review and study the ASPIRE scholarship as proposed during the 2003 session of the 103rd General Assembly as a program that inspires students at an early age to aspire to educational excellence.

(f) The committee shall report by February 15, 2004, to the 103rd General Assembly, its conclusions and any recommendations for modifications or changes that should be made in the manner in which financial assistance is provided under this act from lottery proceeds to Tennessee citizens to enable attendance at postsecondary institutions in this state, at which time the committee shall cease to exist.

SECTION 4. Tennessee Code Annotated, Section 49-6-101, is amended by deleting present subsection (f) and substituting the following:

(f) (1) Through a system of competitive grants and technical assistance provided as funding is available, the department of education may establish, administer and monitor programs of community-based early childhood education and pre-kindergarten programs to serve at least five thousand (5,000) children. Such programs shall be designed to address comprehensively the educational needs, including cognitive, physical, social and emotional, of children who are not otherwise eligible for similar programs or who do not have access to such programs. The programs shall serve:

(A) Children who are four (4) years of age on or before September 30 and from families with incomes that meet the eligibility requirements for free and reduced lunch as determined pursuant to 42 U.S.C. § 1771; and,

(B) Subject to availability of space and resources:

(i) children who are three (3) and four (4) years of age and who are screened and identified as educationally at-risk, determined pursuant to 20 U.S.C. § 1400 et seq.;

(ii) children who are three (3) and four (4) years of age who have been in the Tennessee Early Intervention Program (TEIS) or Even Start program; and

(iii) children three (3) years of age and from families with incomes that meet the eligibility requirements for free and reduced lunch as determined pursuant to 42 U.S.C. § 1771.

Enrollment in the program shall be voluntary.

(2) Any public or not-for-profit agency, meeting the criteria for 501(c)(3) tax exempt status, with experience serving children and in good fiscal standing, is eligible to contract with the department of education to perform the delivery of educational services in compliance with the rules promulgated and the policies adopted for early childhood

education by the state board of education. All not-for-profit agencies, contracted to deliver the early childhood education and pre-kindergarten program, must demonstrate a collaborative agreement between the agency and the local education agency to enhance transition into the public schools, to monitor student performance outcomes as children are promoted through the elementary grade levels, and to evaluate early childhood education teachers for purposes of teacher licensure.

(3) The distribution of early childhood education and pre-kindergarten programs shall be developed in phases based on availability of funding and resources. Selection of early childhood education and pre-kindergarten program sites shall take into consideration the areas of greatest need which may be determined by, but not limited to:

(A) School service areas with high percentages of children from families with incomes that meet the eligibility requirements for free and reduced lunch as determined pursuant to 42 U.S.C. § 1771;

(B) Access to early childhood education and pre-kindergarten programs within the county; or

(C) Service areas of schools which have been determined to be "on notice or probation", as defined by § 49-1-602.

(4) All early childhood education and pre-kindergarten programs established under this subsection shall be developed through a collaborative effort of the departments of education, health, mental health and developmental disabilities, children's services, and human services, and shall build upon resources and services within the community. Efforts should be made by the interdepartmental group to inform eligible families about enrollment in the early childhood education and pre-kindergarten programs, to address the health and social needs of children, and to assist working families to meet extended day child care needs.

(5) All provisions of this subsection are subject to appropriation of funds for that purpose. No provision of this subsection shall be considered an entitlement to any service or program authorized by this subsection unless funds are appropriated for such purpose.

SECTION 5. Tennessee Code Annotated, Title 4, Chapter 31, is amended by adding the following as a new, appropriately designated part:

§ 4-31-1001. This part shall be known and may be cited as the "Tennessee Lottery Funds for Education Projects Loan Act of 2003".

§ 4-31-1002. (a) The general assembly finds and declares that:

(1) Financing costs incurred by local governments in connection with education projects are a significant factor in the ability of the local governments to meet the kindergarten through grade twelve (K-12) educational needs of their communities; and

(2) To the extent that financing of education projects can be accomplished less expensively through the pooling of needs and the use of less costly borrowing techniques, local governments would be better able to provide education projects, and other essential services for the benefit of its citizens and taxpayers.

(b) (1) It is accordingly in furtherance of the interests and welfare of all Tennesseans that the Tennessee local development authority shall be empowered and is hereby authorized to issue its revenue bonds and to make the proceeds available for loans to local government units for capital projects for K-12 educational purposes.

(2) It is intended that the Tennessee local development authority be vested with all powers necessary to accomplish these purposes.

§ 4-31-1003. As used in this part, unless the context otherwise requires:

(1) "Authority" means the Tennessee local development authority.

(2) "Construction" means the building, reconstruction, creation, replacement, extension, repairing, betterment, improvement, alteration, equipment, extension or acquisition, including, but not limited to, the acquisition of land and of rights in land, the engineering, architectural designs, plans, working drawings, specifications, procedures and other action necessary in the construction of such capital projects, and the inspection and supervision of such capital projects.

(3) "Education project" means a capital outlay project for kindergarten through grade twelve (K-12) educational facilities.

(4) "Local education agency" or "LEA" has the same meaning as defined in § 49-3-302.

§ 4-31-1004. (a) In addition to the powers otherwise granted by law, the authority has the power and is authorized to make loans to any local government unit to finance the construction of education projects pursuant to a loan agreement between the local government unit and the authority. Such loans shall be made from the proceeds of bonds or notes issued by the authority pursuant to this chapter for the purpose of making such loans, provided that the bonds and notes of the authority that may be outstanding at any time for such purpose shall not exceed seventy-five million dollars (\$75,000,000). Such bonds or notes may be payable from or secured by the general shortfall reserve subaccount created by § 4-51-111 as the authority may provide in the indentures or resolutions authorizing and securing the authority's bonds and notes, which indentures and resolutions may include covenants with the holders of the bonds and notes with respect to the use, including limitations on such use, of such subaccount.

(b) Only local government units funding the local share of the basic education program for a local education agency shall be eligible to participate in the loan program.

§ 4-31-1005. (a) Subject to any existing contractual obligations of the local government unit and the local education agency, the authority may enter into loan agreements with any local government unit and any local government

unit may enter into loan agreements with the authority for loans for education projects described in this part.

(b) Any loan agreement may include such provisions as may be agreed upon by the authority and the local government and shall additionally include, among other things, in substance, the following:

(1) The amount of the loan, not to exceed the estimated reasonable cost of the project to be constructed, the financing costs of the authority, the administrative costs of the authority and the amount of any required reserves as determined by the authority;

(2) An agreement by the authority to pay part of the amount of the loan to the local government unit during the progress of the construction, or to pay the amount of the loan following completion of the construction, as may be agreed upon by the parties; and

(3) An agreement by the local government unit:

(A) To proceed expeditiously with, and complete, construction of the project in accordance with the plans approved pursuant to this part;

(B) To commence operation of the project on its completion, and not to discontinue operations, change the use of or dispose of the project without the approval of the authority;

(C) To operate and maintain the project in accordance with applicable provisions of this part and in compliance with rules and regulations of the authority;

(D) Not to contract with any corporation for profit, private person or firm for the operation or beneficial use of the same, notwithstanding the provisions of any law authorizing such contracts, except upon approval by the authority of an application to the authority, which application shall include, but not be limited to, an opinion from a nationally recognized bond counsel that the contract will not affect the tax exempt status of the income of the authority's bonds or notes financing such facility under state or federal law;

(E) To pledge such sources of revenue, including, but not limited to, the tax required by § 4-31-1006, to pay the principal of and interest on the loan and to make such payments as and when due in accordance with the loan agreement; and

(F) To establish and maintain adequate financial records for the project, and to cause to be made an annual audit of the financial records and transactions covering each fiscal year in accordance with generally accepted government auditing standards, and to furnish a copy of such audit and, upon request, such financial records to the comptroller of the treasury.

(c) The authority has the right to enter into such further agreements with a local government unit and require such further security as it may see fit prior to, or simultaneously with, the issuance of bonds or notes or to refuse to issue

bonds or notes until such agreements or security, in any form which the authority may elect, are agreed to or are obtained.

(d) Failure of a local government unit to file the audit or, upon request, the financial information with the comptroller of the treasury as required by the loan agreement each year until the loan, together with interest, is totally repaid constitutes a Class A misdemeanor and anyone violating this provision, upon conviction, shall be liable for a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100) for each violation, within discretion of the court, and each day of continued violation constitutes a separate offense.

(e) The department of education, in conjunction with the authority, shall develop an application and review procedure for loans under this program and shall make recommendations to the authority as to loan applications.

(f) The authority and the department shall have such other authority as may be necessary or appropriate for the exercise of the powers and duties conferred by this part.

(g) Each local education agency is authorized to pledge to the authority, for the further security of the authority's bonds and notes, the state share of the nonclassroom capital outlay portion of the local education agency's basic education program funds as set forth in the formula model established or revised by the state board of education and approved by the general assembly. These pledges may be required by the authority as a condition to making loans to local government units.

(h) The authority may promulgate additional guidelines, rules or regulations in furtherance of the administration of this part.

§ 4-31-1006. Whenever, and as often as, a local government unit enters into a loan agreement with the authority under the provisions of this part, the governing body of such local government unit shall provide by resolution for the levy and collection of a tax upon all taxable property within the local government unit sufficient to pay when due all amounts payable under the loan agreement as and when such amounts become due and payable, including all fees and charges due the authority under such loan agreement and, furthermore, to pledge such tax and the full faith and credit of such local government unit to such payments; provided, that a special school district shall provide for the collection of such a tax upon the levy of the tax by the general assembly or shall pledge sufficient amounts from previously authorized taxes to cover all amounts due. Such tax shall be assessed, levied, collected and paid in like manner as other taxes of the local government unit, except as the preceding proviso might apply. Such tax shall not be included within any statutory or other limitation of rate or amount for such local government, but shall be excluded therefrom and be in addition thereto and in excess thereof, notwithstanding and without regard to the prohibitions, restrictions or requirements of any other law, whether public or private. There shall be set aside from such tax levy into a special fund an amount sufficient for the payment of the annual amount due under any such loan agreement and such additional amounts as may be required by the loan agreement for reserves, and the money in such funds shall be used exclusively for such purposes and shall not be used for any other purpose until such annual amount has been paid in full or such reserve requirement has been fully satisfied.

§ 4-31-1007. (a) In the event any local government unit having entered into a loan agreement shall fail to remit funds in accordance with a loan agreement, the authority shall notify the commissioner of education who shall

instruct the commissioner of finance and administration to deliver within five (5) days notice of such failure to the local government unit.

(b) In the event the local government unit, as the case may be, shall fail to remit the amount set forth in the notice within thirty (30) days of the receipt of the notice, the commissioner of finance and administration shall, without further authorization, withhold such sum or part of such sum from the state share of the nonclassroom capital outlay portion of the basic education program fund which is otherwise apportioned to such local education agency and pledged to the authority for the loan to such local government unit, for the benefit of the authority issuing bonds or notes for the purposes referred to in this part.

(c) In the event there are not sufficient funds in the state share of the nonclassroom capital outlay portion of the basic education program fund still held by the commissioner of finance and administration for the local education agency to cure the deficiency in repayments to the authority, the commissioner shall transfer to the authority funds equal to the amount of the remaining payment deficiency from the general shortfall reserve subaccount of the lottery for education account as established by § 4-51-111, subject to any limitations on the use of the subaccount established pursuant to § 4-31-1004(a). The commissioner of education shall instruct the commissioner of finance and administration to withhold from the state share of nonclassroom capital outlay portion of subsequent basic education program funds apportioned to such local education agency an amount to replenish the general shortfall reserve subaccount of the lottery for education account equal to the amount transferred to the authority.

§ 4-31-1008. The authority has the right, in addition to all other rights, by mandamus or other suit, action or proceeding in any court of competent jurisdiction, to require the local government unit and the governing body and any proper officer, agent or employee of the local government unit to carry out any agreements and to perform its and their duties under this part or any rule or regulation of the authority adopted pursuant thereto.

§ 4-31-1009. Local government units may enter into loan agreements under the provisions of this part notwithstanding and without regard to any limit on indebtedness provided by law.

§ 4-31-1010. All action required or authorized to be taken under this part by the governing body of any local government unit may be by resolution, which resolution may be adopted at the meeting of the governing body at which such resolution is introduced, and shall take effect immediately upon its adoption.

§ 4-31-1011. (a) This part shall be in addition to and supplemental to any other law providing for the financing of education projects by local government units.

(b) Notwithstanding any provisions of law to the contrary, no proceedings by a local government unit or local education agency shall be required for loan agreements hereunder, except as provided by this part.

(c) No requirements or restrictions applicable to borrowing by a local government unit contained in any other law shall be applicable to loans under this part.

§ 4-31-1012. (a) Any pledge made by the authority pursuant to this chapter or by a local government unit pursuant to a loan program agreement or by a local education agency in connection therewith shall be valid and binding from the time when the pledge is made, the moneys or property so pledged and thereafter received by the authority or local government unit, as applicable, shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, local government units or local education agency as applicable, irrespective of whether such parties have notice thereof.

(b) Neither the resolution nor any other instrument by which a pledge is created need be recorded.

SECTION 6. Tennessee Code Annotated, Section 4-31-105(b)(6), is amended by deleting the word "or" between the word "bondholders" and the words "to appoint".

SECTION 7. Tennessee Code Annotated, Section 4-31-107(f), is amended by deleting the existing language and by substituting instead the following:

(f) The authority is hereby authorized to issue its bonds and notes in such manner as provided by this chapter.

SECTION 8. The provisions of this act providing for postsecondary financial assistance from the net proceeds of the state lottery shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 9. Tennessee HOPE scholarships, Tennessee HOPE access grants, General Assembly Merit Scholarships, and supplemental awards under § 49-4-915, shall be awarded under the provisions of this act only to those eligible students who graduate from a Tennessee high school, complete high school in a Tennessee home school program, or obtain a GED, after January 1, 2003, but prior to July 1, 2005, and who enroll in and attend an eligible postsecondary institution before January 1, 2006. Such students shall be eligible to receive such scholarships and grants in accordance with § 49-4-913 or § 49-4-920, as such provisions are applicable to the scholarship or grant the student is receiving.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.


SECTION 11. (a) Sections 4, 5, 6, and 7 of this act shall take effect July 1, 2004, the public welfare requiring it.

(b) All other sections of this act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 22, 2003



JOHN S. WILDER
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of June 2003



PHIL BREDEBEN, GOVERNOR